

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-521

DATE OF INTRODUCTION:

January 8, 2002

SPONSOR:

Assemblyman Roberts, Jr.
Assemblyman Azzolina

DATE OF RECOMMENDATION:

March 26, 2002

IDENTICAL BILL:

COMMITTEE:

Assembly Commerce and Economic Development

DESCRIPTION:

The Bill would make sales of lumber and millwork ineligible for the urban enterprise zone (UEZ) reduced sales tax and, also, establish certain dollar and other limitations on the ability to charge the UEZ 3% sales tax.

ANALYSIS:

The Bill amends the New Jersey Urban Enterprise Zone Act of 1983 codified as N.J.S.A. 52:27H-60 et. seq., to disallow sales of lumber and millwork to qualify for the Urban Enterprise Zone (UEZ) reduced sales tax and, also, establish certain dollar and other limitations on the ability to charge the UEZ 3% sales tax. The intent of the Act was to help revitalize the State's economically distressed urban areas. The Act provides a framework encouraging private capital investment and job creation in the selected urban areas. Currently, 27 zones exist.

To date, there has been no comprehensive review of the UEZ program by an independent body. As a result, no substantive data concerning the actual success of the UEZ program has been provided to the Commission. Expansion/restriction of the UEZ program could result in great fiscal impact, both for the Division and the host UEZ municipality. The Division of Taxation's commentary on the fiscal impact of this Bill addresses specifically the estimated impact of the exclusion of lumber and millwork from 3% sales tax rate eligibility. The Division estimates that the exclusion would provide a \$16 Million increase in revenue for the State and an \$8 Million loss to the UEZ municipalities.

This Bill further targets one industry for exclusion. This exclusion would disrupt only a selected type of businesses that have established themselves in reliance on the benefits provided by the UEZ program. The Commission has repeatedly articulated compelling reasons for the repeal of the reduced sales tax rate benefit for all businesses of Zones. The item by item repeal of reduced rate sales taxation will not correct the problems Zones have created in the first place.

Although the Commission recommends the defeat of the Bill in question, it recognizes that the exclusion of eligibility for lumber and millwork would act to address some problems that have existed within the industry. The Division has interpreted the Act to infer that purchases must be made “in-person” and has conveyed its interpretation in its promulgated regulations. (N.J.A.C. 18:24-31.4(e)) Historically, the “in-person” requirement has suffered abuse by the industry that often sells items not taken from inventory and fulfills sales via drop-shipment from beyond the Zone.

The Bill proposes that additional language be added to the statute to support the Division’s audit and enforcement efforts of the “in-person” provision. Although the presence of this express language would act to “tighten up” the Act, the regulations already exist to act in that capacity. The answer lies in the repeal of reduced rate sales taxation throughout the State of New Jersey.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 0

(SG)